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July 5, 1994

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HAND DELIVER

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Mr. William Kennard  
General Counsel  
Federal Communications Commission  
Room 614, 1919 M Street, N.W.  
Washington, D.C. 20554

Re: Pioneer's Preference Program ET Docket 93-266 Ex Parte Presentation

Dear Mr. Kennard:

This is to confirm our meeting at 4:00 p.m. Thursday, July 7 with Omnipoint Corporation. In preparation for that meeting, I wanted to bring to your attention H.R. 4700 and the accompanying statement by John D. Dingell. I bring to your specific attention page 3 of Mr. Dingell's statement stating that Omnipoint should be able to pay for its license on the basis of the price paid by other small businesses.

We believe that it is the intent of the bill that the broadband pioneers retain their MTA license preferences, and that the price and payment mechanisms for a small business like Omnipoint would be based on how small businesses pay for other 30 MHz licenses.

Sincerely,



Ronald L. Plesser

RLP/kdp  
Enclosures

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Mr. William Kennard  
General Counsel  
July 5, 1994  
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cc: The Honorable Reed Hundt	Mr. Don Gips
The Honorable James Quello	Mr. Robert Pepper
The Honorable Andrew Barrett	Mr. Michael Katz
The Honorable Rachelle Chong	Mr. Gerald Vaughan
The Honorable Susan Ness	Ms. Lauren (Pete) Belvin
✓ Mr. William Caton	Mr. Byron Marchant
Mr. Ralph Haller	Mr. Richard Welch
Mr. Thomas Stanley	Mr. James L. Casserly

103D CONGRESS  
2D SESSION

# H. R. 4700

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## IN THE HOUSE OF REPRESENTATIVES

Mr. DINGELL (for himself, Mr. MOORHEAD, Mr. MARKEY, and Mr. SABO) introduced the following bill; which was referred to the Committee on Energy and Commerce.

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## A BILL

To amend the Communications Act of 1934 to prohibit unjust enrichment in the award of licenses by means of pioneer preferences.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Pioneer Preference Re-  
5 form Act of 1994".

6 **SEC. 2. PIONEER PREFERENCES.**

7 (a) **RECOVERY OF VALUE OF PUBLIC SPECTRUM.—**

(1) AMENDMENT.—Section 309(j)(6)(G) of the Communications Act of 1934 (47 U.S.C. 309(j)(6)(G)) is amended to read as follows:

“(G) be construed to prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology, except that—

“(i) the Commission shall prevent unjust enrichment of any such person and shall recover for the public a portion of the value of the public spectrum resource made available to such person by requiring such person to pay a sum equal to not less than 90 percent of highest bid for a license (awarded under this subsection) that is most reasonably comparable in terms of bandwidth, area designation, usage restrictions, and other technical characteristics to the license awarded to such person; and

“(ii) the authority of the Commission to provide preferential treatment in licensing procedures (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the

1                   development of a new service or to the de-  
2                   velopment of new technologies that sub-  
3                   stantially enhance an existing service shall  
4                   expire on September 30, 1998; or”.

5                   (2) EFFECTIVE DATE.—The amendment made  
6                   by paragraph (1) of this subsection shall apply to  
7                   any licenses issued on or after June 3, 1994, by the  
8                   Federal Communications Commission pursuant to  
9                   any licensing procedure that provides preferential  
10                  treatment (by precluding the filing of mutually ex-  
11                  clusive applications) to persons who make significant  
12                  contributions to the development of a new service or  
13                  to the development of new technologies that substan-  
14                  tially enhance an existing service.

15               (b) RULEMAKING REQUIRED.—The Federal Commu-  
16               nications Commission shall prescribe regulations specifi-  
17               ing the procedures and criteria by which the Commission  
18               will evaluate applications for preferential treatment in its  
19               licensing processes (by precluding the filing of mutually  
20               exclusive applications) for persons who make significant  
21               contributions to the development of a new service or to  
22               the development of new technologies that substantially en-  
23               hance an existing service. Such regulations shall—

24                   (1) specify the procedures and criteria by which  
25                   the significance of such contributions will be deter-

1       mined, after an opportunity for review by experts in  
2       the radio sciences drawn from among persons who  
3       are not employees of the Commission or by any ap-  
4       plicant for such preferential treatment;

5               (2) require the duplication of an applicant's test  
6       results by independent parties;

7               (3) include such other procedures as may be  
8       necessary to prevent unjust enrichment by ensuring  
9       that the value of any such contribution justifies any  
10      reduction in the amounts paid for comparable li-  
11      censes under section 309(j) of the Communications  
12      Act of 1934 (47 U.S.C. 309(j)); and

13              (4) be prescribed not later than 6 months after  
14      the date of enactment of this section.